IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 5279 OF 2007

Amruta Gulab Parad and ors.... Petitioner

versus

Jaysing Jijaba Dere and ors..... Respondent.

Shri S.V.Sadavarte for the petitioner
Shri P.S.Dani for the respondent no.3.

CORAM; A.P. DESHPANDE, J.
DATED; 20TH JULY, 2007

P.C.;

1. The Managing Committee of respondent no.4 society comprises of 14 directors. Three of the directors filed a dispute before the Co-operative Court seeking a declaration that the Resolutions passed in the meeting dated 23-5-2007 are illegal and against the provisions of the Maharashtra Co-operative Societies Act. One of the resolution passed in the meeting of 23-5-2007 is electing a representative of the respondent no.4 for the election of Federal society. By filing a dispute the main objection is, in regard to the election of respondent no.3 as a representative of respondent no.4 on Federal society,for casting vote on behalf of the respondent no.4. The resolution has been passed by 11 directors out of 14 unanimously,whereas the present petitioners who are disputants before the Co-operative courts have

remained absent. The trial court granted temporary injunction not to implement the Resolution whereas in an appeal filed before the Co-operative appellate court, the order passed by the co-operative court has been reversed and allowing the appeal, the interim injunction has been vacated and aggrieved thereby the present writ petition has been filed.

2. On perusal of the order, it is revealed that a meeting prior to 23-5-2007 of the managing committee was held on 11-5-2007 and in the said meeting itself it was resolved that next meeting for electing the representative of respondent no.4 society shall be held on 23-5-2007. It so happened that while issuing notices of the meeting dated 23-5-2007 , one of the directors by name Raghunath Sakore received a notice bearing the scheduled date of the meeting to be 20th May instead of 23rd May. It has come on record that the notices of the meeting were sent by two modes, one under certificate of posting and two by hand delivery. Raghunath Sakore, who is one of the petitioners/disputant had a wrong mention about the scheduled date of meeting in the notice received by him by hand delivery. Barring the said mistake in one of the notices, received by Raghunath Sakore by hand delivery, all other notices did carry the correct date of meeting i.e. 23rd May. Shri Raghunath Sakore had

attended the earlier meeting wherein the date of the next meeting was fixed as 23-5-2007. On the basis of the said mistaken date entered in the notice received by Raghunath Sakore, the dispute was filed. The first appellate court realising the fact that a mistake in the date entered in one of the notices, received by one of the modes did not prejudice the petitioner for the reason that said Raghunath Sakore was present in the earlier meeting and was in know of the correct date of the next meeting wherein the representative was to be elected.

3. Perused the order impugned in this petition. Same takes a correct view of the matter. Petitioners appears to be in absolute minority. The resolution in question is carried unanimously when 11 out of 14 directors have attended the meeting. The subsequent event that has taken place after passing of the impugned order is finalisation of the voter's list by the Collector wherein the name of the respondent no.3 has been entered as a representative of the respondent no.4 Federal society. Having regard to the totality of the facts and circumstances, no case is made out for interference with the impugned order. Hence writ petition is summarily dismissed.

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